

Application No.: 09/386,775

Docket No.: 00-VE13.51

**REMARKS**

The Office Action dated October 20, 2005 has been carefully reviewed and the following remarks are made in consequence thereof. Claims 1-18 were pending. Applicants thank the Examiner for allowing claims 16 and 18. The Examiner has rejected claims 1, 2 and 17 under 35 U.S.C. §102(e). The Examiner has also rejected claims 3-6 and 11-15 under 35 U.S.C. §103. Applicants respectfully request reconsideration of the pending claims in view of the following remarks.

**I. Response to the Examiner's Response to Arguments**

In part B of the Examiner's response, the Examiner quotes "the filter of 10 KHz detector 268". (See Office Action, Page 7). Applicants cannot determine what reference the quote is attributed to without a citation. A careful, and telling, review of Sansom reveals that the word "filter" appears only once. (See Col. 3, Lines 40-44). As such, the "filter" is used in relation to a time sensing mechanism to determine the duration of a power outage. In this case, the "filter" helps to determine whether a power loss is of a substantial duration so as to warrant switching to a backup mode. (See Col. 3, Lines 31-50). Thus, the only mention of "filter" in Sansom is not related to Applicants' claimed subject matter.

**II. Rejection of Claims 1, 2, and 17 Under 35 U.S.C. §102(e)**

Claims 1, 2, and 17 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,943,404 to Sansom ("Sansom"). Claims 1 and 2 are independent claims, and claims 3-15 depend directly, or indirectly, from claim 2.

To anticipate a claim, the reference must teach every element of the claim. A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the ... claim. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

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**I. Claims 1, 2**

Claims 1 and 2 recite a method and a system, respectively, useful in providing uninterrupted digital communications between a central office and customer premises.

Both claims 1 and 2 employ the following elements:

a local loop generation mechanism in series with a communications path between a central office and a customer, and

a frequency-selective filter in parallel with the local loop generation mechanism  
... to provide a bypass across the local loop generation mechanism.

(Emphasis added).

The Examiner asserts that “auxiliary digital/analog interface 250 or 750 or 10 KHz tone detector 268” is the equivalent of “a frequency-selective filter in parallel with the local loop generation mechanism” as described in claims 1 and 2. (See Office Action, Page 2). Each of the elements of Sansom cited by the Examiner is addressed below as the rejection is traversed.

**(a) Auxiliary digital/analog interface 250 or 750**

As described in Sansom, “the auxiliary digital/analog interface 250 is operative to convert sampled analog voice signals received over the local loop from the auxiliary analog (POTS) telephone 25 into (64 Kbps) digitally formatted voice signals, for transmission via a B channel portion of the ISDN communication link.” (Emphasis added) (See Col. 19, Lines 59-67; FIGS. 4, 17).

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Auxiliary digital/analog interface 250 is not a filter

Sansom clearly indicates that auxiliary digital/analog interface 250 is a converter. (See Col. 19, Lines 60-63). No filtering operation is disclosed in Sansom with respect to auxiliary digital/analog interface 250. Auxiliary digital/analog interface 250 is used to convert signals from an analog (POTS) telephone 25 into digitally formatted voice signals. (See Col. 19, Lines 60-63). Clearly, auxiliary digital/analog interface 250 functions merely as an analog/digital converter. No filter operation is performed. Auxiliary digital/analog interface 250 is simply a conversion device. (See Col. 19, Lines 59-67).

Thus, auxiliary digital/analog interface 250 is not a “filter” as is required by claims 1 and 2.

Auxiliary digital/analog interface 250 is not frequency-selective

Applicants can only assume that the Examiner is alleging anticipation of the required “frequency-selective” nature of the “filter” of claims 1 and 2. However, the rate of conversion (64 Kbps) of auxiliary digital/analog interface 250 is irrelevant as the component does not perform a filtering function. The function of auxiliary digital/analog interface 250 is to digitally format voice signals. (See Col. 19, Lines 59-67). Claims 1 and 2 require that the filter is “frequency-selective”. Here, Sansom discloses a conversion device that operates at a predetermined rate of 64 KHz. Interface 250 does not perform “frequency-selective” filtering. Thus, auxiliary digital/analog interface 250 is not “frequency-selective” as is required by claims 1 and 2.

For the reasons set forth above, the auxiliary digital analog interface 250 is not a “filter” and is not “frequency-selective.” Accordingly, auxiliary digital analog interface 250 is not a “frequency-selective filter,” as recited in claims 1 and 2.

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**(b) 10 KHz tone detector 268**

The 10 KHz tone detector 268 merely informs microcontroller 220 of the presence of a tone via output 262. (See FIGS. 4, 17; Col. 12, Lines 37-47). In contrast, claims 1 and 2 require a “frequency-selective filter in parallel with the local loop generation mechanism”.

**10 KHz tone detector is not a filter**

As explained in Sansom, the 10 KHz tone detector 268 is a detector rather than a filter. A filter is used to reject signals or radiations of certain frequencies while allowing others to pass. Here, however, Sansom uses 10 KHz tone detector 268 to detect the presence of a signal. Sansom does not use 10 KHz tone detector 268 to allow or reject signals of certain frequencies. Thus, 10 KHz tone detector 268 is not a “filter” as is required by claims 1 and 2.

**10 KHz tone detector is not in parallel**

Further, the 10 KHz tone detector 268 is not “in parallel with the local loop generation mechanism”. Rather, 10 KHz tone detector 268 is a separate circuit that listens to detect a tone on SLIC 253. Tone detector 268 reports the presence or absence of a tone to microcontroller 220 by way of output 262. (See FIGS. 4, 17; Col. 12, Lines 37-47). Thus, 10 KHz tone detector 268 is not “in parallel with the local loop generation mechanism”.

For the reasons set forth above, the tone detector 268 is not a “filter” that is “in parallel with the local loop generation mechanism,” as recited in claims 1 and 2.

Because neither the auxiliary digital/analog interface 250 or 750 nor the 10KHz tone detector 268 is a “frequency selective filter” that is “in parallel with the local loop generation mechanism,” claims 1 and 2 are allowable over Sansom.

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**ii. Claim 17**

Claim 17 requires “a frequency selective filter in parallel with the local loop generation mechanism.” The Examiner relies upon the same “auxiliary digital/analog interface 250 or 750 or 10KHz tone detector 268” as disclosing the “frequency selective filter” recited in claim 17. For the same reasons as set forth above in connection with claims 1 and 2, neither the auxiliary digital/analog interface 250 or 750 nor the 10KHz tone detector 268 is a “frequency selective filter.” For at least this reason, claim 17 is allowable over the cited prior art.

**III. Rejection of Claims 3-6 and 11-15 Under 35 U.S.C. §103(a)**

Claims 3-6 and 11-15 have been rejected as being unpatentable under 35 U.S.C. §103(a) over Sansom in view of U.S. Patent 5,974,139 to McNamara et al. (“McNamara”). Claims 3-6 and 11-15 depend directly or indirectly from claim 2. Therefore, for the same reasons that claim 2 is allowable over the cited art, claims 3-6 and 11-15 are similarly allowable.

**IV. Rejection of Claims 7-10 Under 35 U.S.C. §103(a)**

Claims 7-10 have been rejected as being unpatentable under 35 U.S.C. §103(a) over Sansom in view of McNamara, and further in view of Alpha Communications (Product Specification Sheet, Rev. 1-12/98). Claims 7-10 depend indirectly from claim 2. Therefore, for at least the same reasons that claim 2 is allowable over the cited art, claims 7-10 are similarly allowable.

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**CONCLUSION**

In view of the above, each of the presently pending claims in this application is believed to be in condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue. It is believed that any fees associated with the filing of this paper are identified in an accompanying transmittal. However, if any additional fees are required, they may be charged to Deposit Account 07-2347. To the extent necessary, a petition for extension of time under 37 C.F.R. 1.136 is hereby made, the fee for which should be charged to the above account number.

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Respectfully submitted,

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